

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a Commercial Recreation Enterprise consisting of a Theme-Family Entertainment Restaurant and Theater as the principal use with amusement devices as an accessory use in a B.M. zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Lessee
~~XXXXXXXXXXXX~~
Animated Playhouses Corporation
(Type or Print Name)
Signature: *[Signature]*
By: *[Signature]* E. Kennard, II, Pres.
1776 East Jefferson Street
Address
Suite 336 South
Rockville, Maryland 20852
City and State

Legal Owner(s):
Belair Road Associates, Ltd.
(Type or Print Name)
Signature: *[Signature]*
Signature By: D.R. Frederick, Gen. Mgr.
W. C. Pinkard & Company, Inc., Agent for
(Type or Print Name) Belair Road Associates
Signature

Attorney for Petitioner:
John B. Howard
(Type or Print Name)
Signature: *[Signature]*
210 Allegheny Avenue
Address
P.O. Box 5517
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 823-4111

1600 First National Bank Building
Address
Baltimore, Maryland 21201 752-4285
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John B. Howard
210 Allegheny Avenue, Towson, Md.
301-823-4111 21204
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day of February, 1982, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 25th day of March, 1982, at 10:30 o'clock A.M.

Zoning Commissioner of Baltimore County.

ECO-No. 1

(over)

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 16, 1982

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

John B. Howard, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204

RE: Item No. 143
Belair Road Associates, Ltd., Petitioner
Special hearing Petition

Dear Mr. Howard:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject of this petition is the site of the former Pass Brothers restaurant, located in the Putty Hill Plaza shopping center. Because of your clients' proposal to operate a family restaurant and theater with amusement devices at this location, this special hearing to determine if it should be allowed in the existing B.M. zone is requested.

At the time of field inspection, alterations to this building were already being performed. Particular attention should be afforded to the comments of the Department of Permits and Licenses.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]
NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NEC:bec

Enclosures
cc: Gerhold, Cross & Etzel
412 Delaware Avenue
Towson, Md. 21204



Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
M. S. Catlin
Administrator

February 17, 1982

Mr. William Hammond
Zoning Commissioner
County Office Bldg.
Towson, Md. 21204

Attention: Mr. N. Commodari

Re: SAC Meeting of 2-16-82
ITEM: #143
Property Owner: Belair Road Associates, Ltd.
Location: NW/S Belair Road
Route 1-N, 318' N/E from centerline of Lincoln Ave.
Existing Zoning: B.M.-CNS
Proposed Zoning: Special Hearing to approve a Commercial Recreation Enterprise consisting of Theme-Family Entertainment Restaurant and Theater as the principal use with amusement devices as an accessory use in B.M. zone.
Acres: 11.58
District: 14th

Dear Mr. Hammond:

On review of the site plan of January 26, 1982 and field inspection, the State Highway Administration finds the plan generally acceptable.

Very truly yours,
[Signature]
Charles E. Chief
Bureau of Engineering
Access Permits

CL:GW:maw

By: George Wittman

cc: Mr. J. Wimbley

My telephone number is (301) 659-1350

Telephone for Impaired Hearing or Speech
383-7555 Baltimore Metro — 565-0451 D.C. Metro — 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203-0717

March 1, 1982

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GENDER
DIRECTOR

Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #143, Zoning Advisory Committee Meeting, February 16, 1982, are as follows:

Property Owner: Belair Road Associates, Ltd.
Location: NW/S Belair Road 318' N/E from centerline of Lincoln Avenue
Acres: 11.58
District: 14th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This petition meets the requirements of the Division of Current Planning and Development.

Very truly yours,

[Signature]
John L. Wimbley
Planner III
Current Planning and Development

JLW:rh

February 22, 1982

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item 143, Zoning Advisory Committee Meeting of February 16, 1982, are as follows:

Property Owner: Belair Road Associates, Ltd.
Location: NW/S Belair Road 318' N/E from centerline of Lincoln Avenue
Existing Zoning: B.M. - CNS
Proposed Zoning: Special Hearing to approve a Commercial Recreation Enterprise consisting of Theme-Family Entertainment Restaurant and Theater as the principal use with amusement devices as an accessory use in B.M. zone.

Acres: 11.58
District: 14th

Metropolitan water and sewer exist.

Prior to construction, renovation and/or installation of equipment for this food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, Baltimore County Department of Health, for review and approval.

Very truly yours,

[Signature]
Don J. Forrest
DIRECTOR
BUREAU OF ENVIRONMENTAL SERVICES

IJF:ru

March 2, 1982

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

THE ZONING
DIRECTOR

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #143 Zoning Advisory Committee Meeting, February 16, 1982 are as follows:

Property Owner: Belair Road Associates, Ltd.
Location: NW/S Belair Road 318' N/E from centerline of Lincoln Avenue
Existing Zoning: B.M. - CNS
Proposed Zoning:

Acres: 11.58
District: 14th

The items checked below are applicable:

- X A. All structures shall conform to the Baltimore County Building Code 1978, the State of Maryland Code for the Handicapped and Aged, and other applicable Codes, and other miscellaneous.
- X B. A building permit shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.
- X D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. In wood frame construction an exterior wall erected within 6' 0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3' 0" of lot line. A minimum 8" masonry firewall is required if construction is on the lot line.
- F. Requested variance conflicts with the Baltimore County Building Code, Section 6.
- G. A change of occupancy shall be applied for, along with an alteration permit application. And three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 305 and the required construction classification of Table 201.
- X I. Comments - When construction drawings being filed for a building permit have noted on the face of the permit which request the proposed uses and etc. show required number of handicapped parking spaces, signs, curbs out, etc. for this occupancy, located in compliance with Code. Comments reflect only on the information provided by the drawing submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,
[Signature]
Charles E. Surman, Chief
Plans Review

CEB:rrj

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

March 12, 1982

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #143 (1981-1982)
Property Owner: Belair Road Associates, Inc.
N/W/S Belair Road 318' N/E from centerline of Lincoln Avenue
Acres: 11.58 District: 14th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Baltimore County highway and utility improvements exist and are not directly involved in connection with this Petition for a Special Hearing.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 143 (1981-1982).

Very truly yours,

[Signature]
ROBERT A. WILSON, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss

M-SW & N-SE Key Sheets
28 & 29 NE 20 & 21 Pos. Sheets
NE 7 & 8 & F Topo
81 Tax Maps

FOOD, FUN & FANTASY FOR THE WHOLE FAMILY.

Are we a restaurant? Are we a theater? Are we a funhouse? Yes! Yes! And yes! Animated Playhouses Corporation has created an imaginative feast of family fun that's one of the most exciting new entertainment concepts of the 80's. Join us for an unbeatable blend of good food and good times.

STAGE LEFT: You can choose from a delectable menu of all-time favorites like fried chicken, fresh-baked corn muffins, honey, salad bar, pizza and hearty sandwiches. Ice cream sundaes, specialty desserts, cotton candy, even wine and beer.

STAGE RIGHT: You'll find a veritable full of electronic games, Super Ball, radio-controlled toys, children's rides, a free playground and more. In a wholesome family atmosphere, guaranteed by our own uniformed security staff.

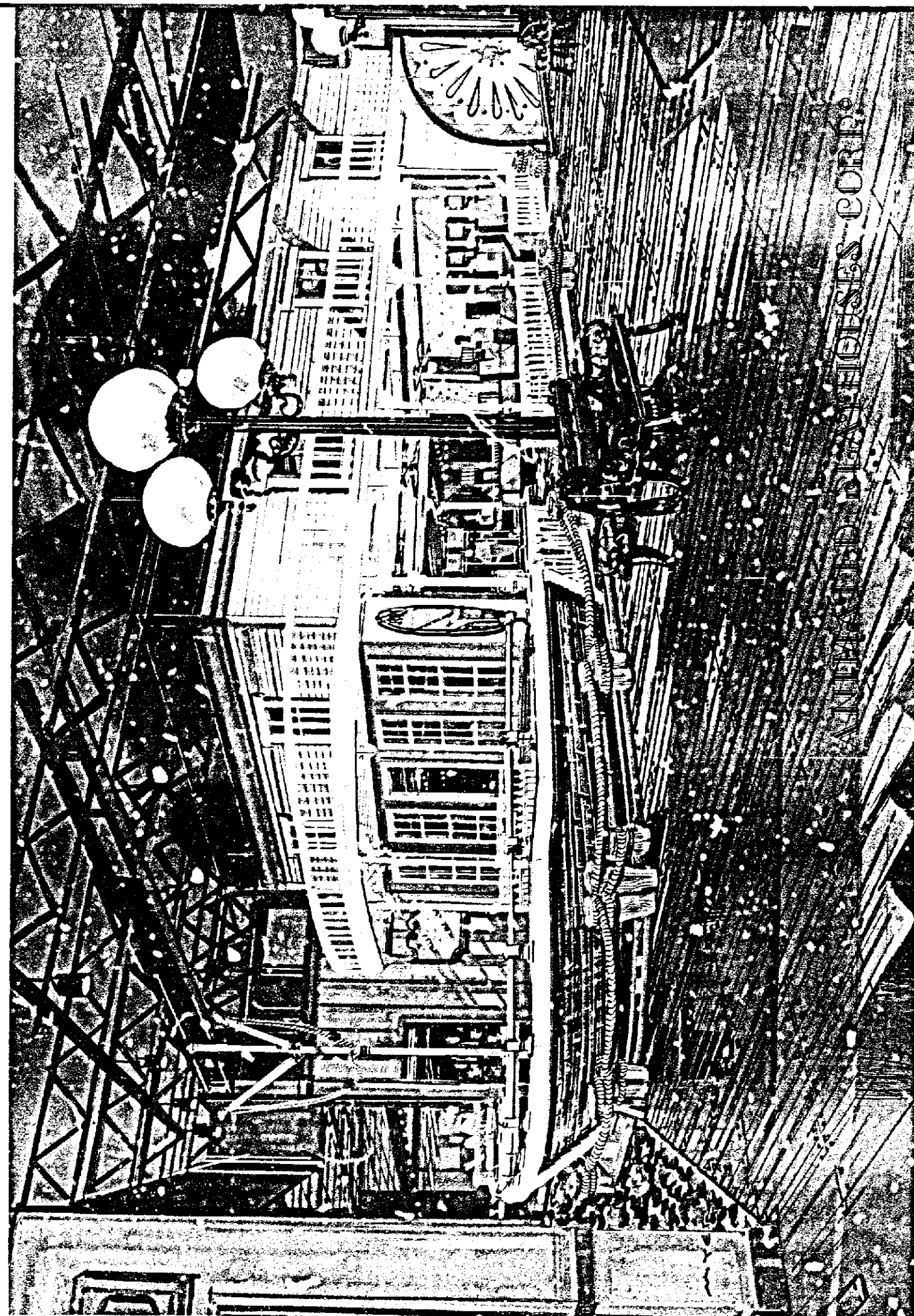
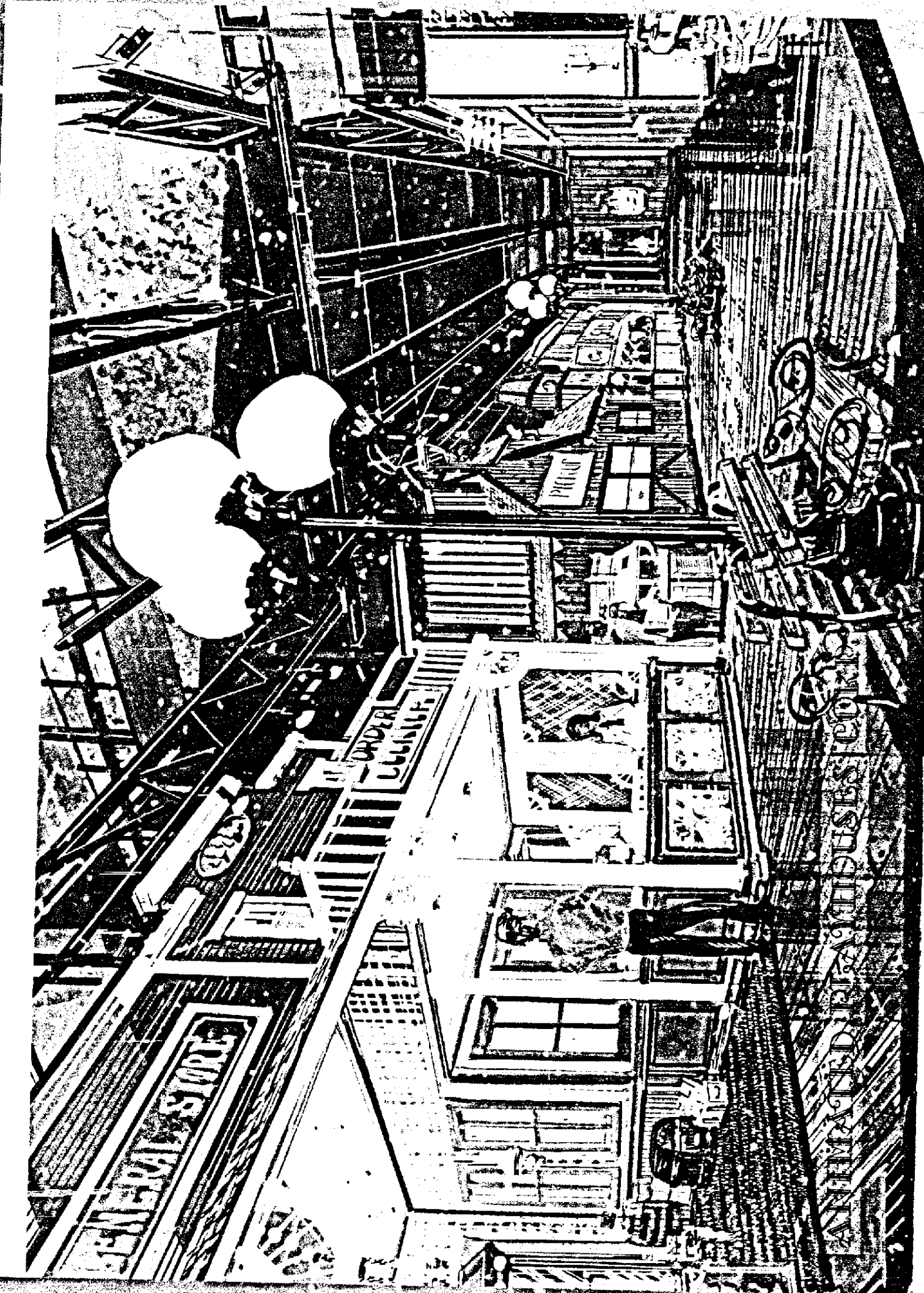
IN THE SPOTLIGHT: Our ensemble of full-size three-dimensional computer-controlled animated characters is the most beguiling cast to ever grace a stage. While you dine, you'll be enchanted as they sing and perform their way through scores and scripts created expressly for Animated Playhouses Corporation by the most respected songwriters, animators and directors in the entertainment industry.

Scrumptious food. Fantastic entertainment. Fun for all ages. And the result of Animated Playhouses Corporation's meticulous planning and expertise. The development of our entire project from front door to stage door has been skillfully monitored by our management team to produce a top quality product of moderate consumer prices. Our food service professionals have carefully organized menus, procurement and preparation systems. And our operating policy of not admitting children under 16 without a parent insures a wholesome environment for everyone. Make way for a world of first-rate family entertainment from Animated Playhouses Corporation. We'll show you!

IT'S A
THEME PARK—
INDOORS!



RIVER TOWNE RESTAURANT	
CHICKEN Family - 10 Pcs.	
Salad, Potatoes,	
Biscuits & Honey	
1/2 Chicken - 4 Pcs.	
Salad, Potatoes,	
Biscuits & Honey	
1/4 Chicken - 2 Pcs.	
Salad, Potatoes,	
Fruit & Honey	
Just Chicken Pcs.	
20 - 10 - 4 - 2	
JUST FOR KIDS	
Chicken	
Drumsticks	
Hot Dog - All Beef	
SANDWICHES	
Hot Dog - Beef	
Beef BBQ	
Chicken BBQ	
SPECIAL S	
Salad Bar	
2 Biscuits	
Potato Skins	
French Fries	
Fried Mushrooms	
BEVERAGES	
Soft Drinks	
Coke - Tab - Sprite - Orange	
Regular	
Pitcher	
"Babes In Arms"	
Miscellaneous	
Coffee	
Tea (Hot/Iced)	
Milk	
Sanka	
Chocolate Milk	
PIZZA River Towne Combo	
Cheese, Pepperoni, Beef	
Sausage, Olives, Onions	
Mushrooms, Green Peppers	
Vegetarian Special	
Cheese, Tomatoes, Olives	
Mushrooms, Green Peppers	
Onions	
Design Your Own	
Cheese Pizza	
Extra Ingredients	
Cheese, Ham, Beef	
Pepperoni, Sausage,	
Olives, Mushrooms,	
Green Peppers, Onions,	
Pineapple	
Pizza By The Slice	
Pepperoni	
Cheese	
SWEETS	
Showboat	
Hot Fudge	
Chocolate	
Strawberry	
Caramel	
Cones: 1 scoop	
Cones: 2 scoops	
Vanilla, Chocolate,	
Strawberry	
WINE	
Carole	
"Carole	
Glass	



THOMAS J. REIDENBACH
Executive Vice President
and Director

Thomas J. Reidenbach is Executive Vice President and Director of Animated Playhouses Corporation, as well as Director and Vice President of Animated Show Productions. A licensed architect, he has had over eight years experience as a member of the Walt Disney organization, including his participation in the design and construction of Walt Disney World. Additionally, he has spent ten years in private consulting for animation-related theme park attractions. He was responsible for the formation of the Main Street Design Company, handling themed architecture, animatronics and film animation for a wide variety of entertainment facilities.



EDWARD T. WHELAN
Vice President of Construction
and Development,
Secretary and Treasurer

Edward T. Whelan is co-founder, Vice President of Construction and Development, as well as Secretary, Treasurer, and Director of Animated Playhouses Corporation. He is responsible for real estate acquisition and project development. Mr. Whelan has been an officer with the Woodbridge, New Jersey, Township Police Department, where he was a member of the narcotic and tactical crime squads. He also renovated and operated a family restaurant and bar.



QUENTIN D. SCHWENINGER
Vice President of Manufacturing

Quentin D. Schweninger is Vice President of Manufacturing for Animated Playhouses Corporation and Director of Animated Show Productions Corporation. As such, his responsibilities include the development of the animated entertainment system. Mr. Schweninger brings over twenty years of extensive experience with the Walt Disney organization. During that time, he directed animation design, manufacturing, and show and ride production. Immediately prior to leaving the Disney organization, he was Manager of Manufacturing and Installation for Disney's Tokyo, Japan project and was in charge of all mechanical research and development.



WILLIAM HILLSHAFAR
Vice President of Operations

William Hillshafar joined Animated Playhouses Corporation as Vice President of Operations. Previously, he was with ShowBiz Pizza Place, Inc., as Opening District Manager. In this capacity, he was responsible for unit opening and employee training. Mr. Hillshafar's background includes seventeen years with the Marriott Corporation in restaurant operations. During this time he was District Manager of Roy Rogers and most recently, Regional Manager of Farnell's Division. Additionally, he supervised region management training and taught management seminars.



ELIZABETH WITHERS
Director of Training
and Food Standards

Elizabeth Withers is Director of Training and Food Standards for Animated Playhouses Corporation. She was previously with the Marriott Corporation, most recently as Director of Region Training in the Roy Rogers Division, where she was responsible for one hundred members of management, recruiting, training and standards supervision. While at Marriott, Ms. Withers was also in charge of the Assistant Manager Development program in the Baltimore area and an instructor for food handling procedures and sanitation seminars. Her responsibilities included R&D for new products, test kitchen and seminar development. In addition, she served on special task forces for Roy Rogers and Marriott's Great America Theme Parks.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 14 Date of Posting: 3/12/82
Posted for: Belair Road Associates, Ltd.
Petitioner: Belair Road Associates, Ltd.
Location of property: 745 N.W. of Belair Rd., 666' W. of
Belair Rd.
Location of Signs: Offroad property, 10 feet from - facing
intersection of Belair Rd. & entrance lane
Remarks: None
Posted by: John B. Howard Date of return: 3/12/82
Signature: [Signature]

John B. Howard, Esquire
210 Allegheny Avenue
P.O. Box 5517
Towson, Md. 21204

Gerhold, Cross & Etzel
112 Delaware Avenue
Towson, Md. 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 5th day of February, 1982.

Petitioner: Belair Road Associates, Ltd.
Petitioner's Attorney: John B. Howard, Esq.

[Signature]
WILLIAM E. HAMMOND
Zoning Commissioner

Reviewed by: Nicholas B. Commodari
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>73-101-JPH</u>	Revised Plans: Change in outline or description <u>Yes</u> <u>No</u>									
Previous case: <u>73-101-JPH</u>	Map # <u> </u>									

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 1 day of Feb., 1982.

Filing Fee \$ 25 Received: Check
Cash
Other

#143

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 105719

DATE: 2/24/82 ACCOUNT: 01-662

AMOUNT: \$25.00

RECEIVED John B. Howard, Esquire

FOR: Filing Fee for Case #82-208-SFH (Belair Rd. Assoc)

E. Hammond, Zoning Commissioner

d by: [Signature]

wed by: WEL

f the Petition for assignment of a

3102400 0 25004

VALIDATION OR SIGNATURE OF CASHIER

DR 5.5 UNIMPROVED
S40°16'19"W 669.27
B11 CNS

SPECIAL NOTES FOR PARKING AREA IN RESIDENTIAL ZONE

1. THE LAND TO BE USED FOR PARKING ADJOINS THE BUSINESS PROPERTY FOR WHICH PARKING IS TO BE USED
2. ONLY PASSENGER VEHICLES, EXCLUDING BUSES WILL USE PARKING AREA
3. NO LOADING SERVICE OR ANY USE OTHER THAN PARKING WILL BE PERMITTED
4. SCREENING SHALL CONSIST OF AN 8' HIGH STOCKADE FENCE AS INDICATED HEREON
5. PARKING SHALL BE BITUMINOUS CONCRETE
6. THE PARKING AND MEANS OF VEHICULAR ACCESS WILL BE AS INDICATED HEREON
7. THE PARKING AREA SHALL BE FOR THE USE OF THE SHOPPING CENTER ONLY DURING HOURS OF RETAIL STORE OPERATION

ZONED B.M. CNS

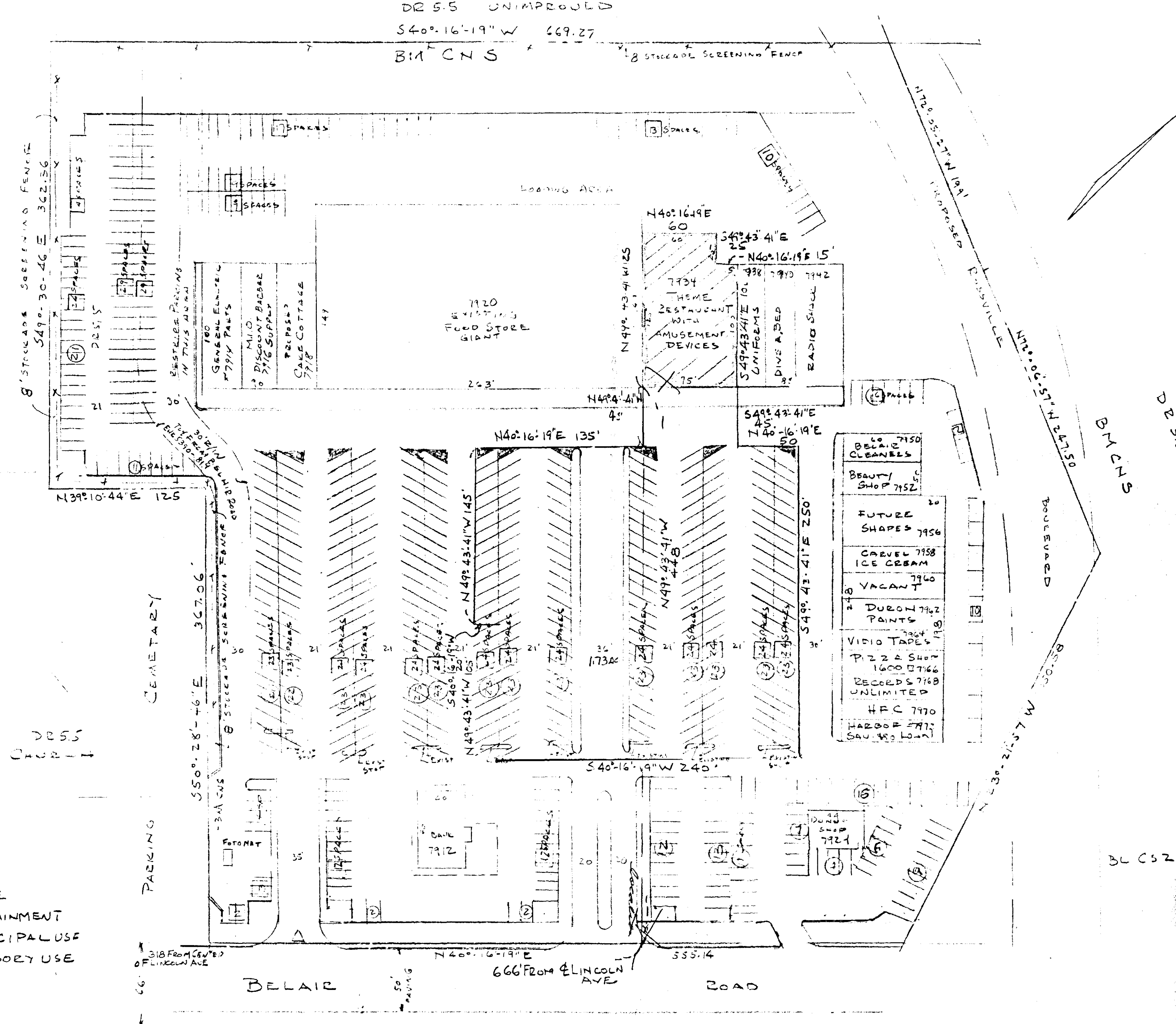
PROPOSED: SPECIAL HEARING FOR
APPROVAL OF A COMMERCIAL ENTERPRISE
CONSISTING OF A THEME-FAMILY ENTERTAINMENT
RESTAURANT AND THEATER AS THE PRINCIPAL USE
WITH AMUSEMENT DEVICES AS AN ACCESSORY USE
IN A B.M. ZONE

PARKING DATA	
RETAIL STORE SPACE	69390' ÷ 200 = 347 SPACES
3 RESTAURANTS	
THEME	9000' ÷ 50 = 180
BICCO'S PIZZA	16000' ÷ 32 = 500
DUNKIN DONUT	1540' ÷ 31 = 50
BEAUTY SHOP	12140' ÷ 50 = 243 SPACES
OFFICE	15000' ÷ 300 = 5
BANK (DRIVE IN)	1440' ÷ 300 = 5
	2400' ÷ 300 = 8 SPACES
TOTAL SPACES REQUIRED 608 SPACES	
TOTAL SPACES PROPOSED 610	

LEGEND PARKING
(12) EXISTING SPACES
(24) PROPOSED SPACES

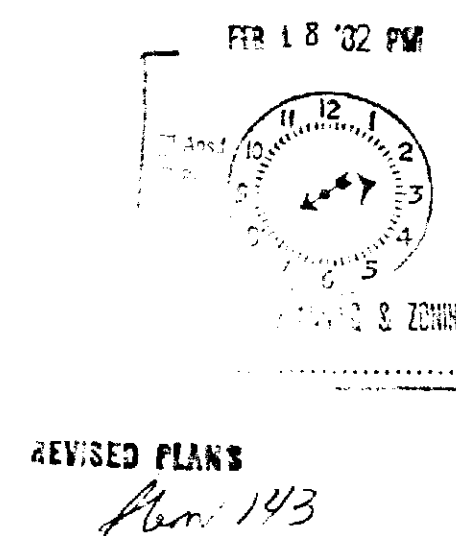
ZONING PLAT
PROPERTY LOCATED
IN
14TH ELECTION DISTRICT BALTO COMD
AREA = 11.58 ACRES ±

PUBLIC WATER AND SEWER SERVICES EXIST
WITHIN THE SHOPPING CENTER



DIRECTORY	
7912	MARYLAND NATIONAL BANK
7914	GENERAL ELECTRIC PARTS
7916	MIO. DISCOUNT BARBER SUPPLY
7918	CAKE COTTAGE
7920	GIANT FOODS
7924	DUNKIN DONUTS
7934	THEME RESTAURANT
7938	DINE A BED
7942	RADIO SHACK
7950	BELAIR CLEANERS
7952	BEAUTY SHOP
7956	FUTURE SHAPES
7958	CARVEL ICE CREAM
7960	VACANT
7962	DURON PAINTS
7964	VIDEO TAPES
7966	PIZZA SHOP
7968	RECORDS UNLIMITED
7970	H.F.C.
7972	HARBOR S&L

SCALE 1"=50' JANUARY 26, 1962
GERHOLD, CROSS & ETZEL
REGISTERED LAND SURVEYORS
412 DELAWARE AVE TOWSON, MD.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 24, 1997

Gary R. Maslan, Esquire
Maslan, Maslan, Rothwell & O'Brien, P.A.
7508 Eastern Avenue
Baltimore, MD 21224

RE: Zoning Verification
7934 Belair Road
Lancebrook, Inc. t/a Tully's
Zoning Case #82-208-SPH
14th Election District

Dear Mr. Maslan:

Your letter to Arnold Jablon, Director of Permits and Development Management, (and red-lined site plans and microfilmed copy of the 1982 hearing plan submitted 10-23-97) have been referred to me for reply. The current zoning of this site is B.M.-A.S. (Business, Major - Automotive Services). Your clients' request is for a 2,000 square foot restaurant addition which would make it the same size as the prior business known as Rivertown. In 1982 Rivertown was granted permission to use the premises as a theme family restaurant and theater as a principle use with amusement devices as accessory use. Approval was granted for no more than 50 children rides and games located in a designated area consisting of up to 17% of the total 9,000 square feet. It was agreed at that time that the petitioner anticipated no less than 25% of the gross revenue of the restaurant would be generated from the rides and games.

Lancebrook, Inc. proposes to add ten additional coin operated amusement devices to the existing four. The amount of revenue expected to be generated from the additional amusements would be less than 15% of the gross revenue of the restaurant. The nature of the proposed amusements are virtual reality devices, i.e., a car driving machine or a snow skiing device. The area to be occupied by the existing and proposed machines will be less than what was previously approved by the hearing. This matter has been reviewed by the staff and it has been determined that your client's request will be approved as being within the spirit and intent of zoning hearing number 82-208-SPH.

Gary R. Maslan, Esquire
October 24, 1997
Page 2

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Sincerely,

John J. Sullivan, Jr.
Planner II
Zoning Review

JJS:rye

c: zoning case 82-208-SPH

Enclosure



BM UNIMPROVED
S40°16'19"W 669.27

FARM
DR 16

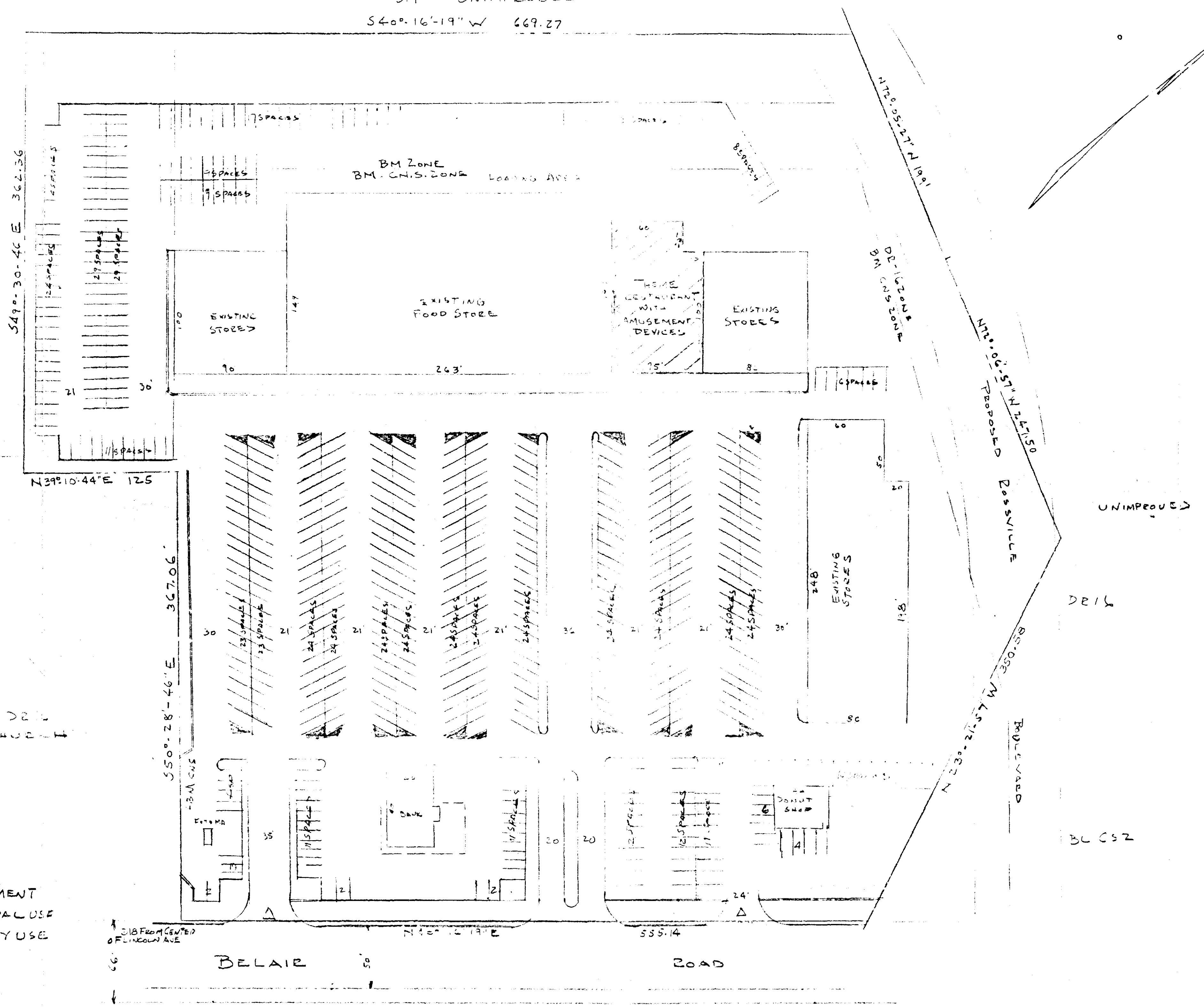
DR 16
OF 11

ZONED B.M. C.N.S.
PROPOSED: SPECIAL HEARING FOR
APPROVAL OF A COMMERCIAL ENTERPRISE
CONSISTING OF A THEME-FAMILY ENTERTAINMENT
RESTAURANT AND THEATER AS THE PRINCIPAL USE
WITH AMUSEMENT DEVICES AS AN ACCESSORY USE
IN A B.M. ZONE

PARKING DATA
DETAIL STORE SPACE $79467' \div 200 = 398$ SPACES
RESTAURANT $9000' \div 50 = 180$ SPACES
TOTAL 578
NO OF SPACES PROVIDED 578 SPACES

PUBLIC WATER AND SEWER SERVICES EXIST
WITHIN THE SHOPPING CENTER

ITEM #113
OED



ZONING PLAT
PROPERTY LOCATED
IN
14TH ELECTION DISTRICT BALTO COMD.
AREA = 11.58 ACRES ±

SCALE 1"=100 JANUARY 26, 1982
GERHOLD, CROSS & ETZEL
REGISTERED LAND SURVEYORS
412 DELAWARE AVE TOWSON, MD.

Petition For Special Hearing

14th DISTRICT

ZONING: Petition for Special Hearing.

LOCATION: 448 ft. Northwest of Belair Road, 636 ft. Northeast of centerline of Lincoln Avenue.

DATE & TIME: Thursday, March 25, 1982, at 10:30 a.m.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing:

Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a commercial recreation enterprise consisting of a Theme-Family Entertainment Restaurant and Theater as the principal use with amusement devices as an accessory use in a B.M. Zone.

All that parcel of land in the Fourteenth District of Baltimore County.

All that piece or parcel of land situate, lying and being in the Fourteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the southeast end of the common wall between the Giant Food Store and the restaurant in the Belair Road Plaza Shopping Center, said point being distant North 49 degrees 43 minutes 41 seconds West 448 feet from

a point on the northwest side of Belair Road which point on Belair Road is located 666 feet measured northeasterly along the northwest side of Belair Road from the center of Lincoln Avenue, thence running from said place of beginning and binding on said common wall, North 49 degrees 43 minutes 41 seconds West 125 feet, thence leaving said common wall and continuing to bind on the walls of the restaurant, the four following courses and distances viz: North 40 degrees 16 minutes 19 seconds East 60 feet, South 49 degrees 43 minutes 41 seconds East 25 feet, North 40 degrees 16 minutes 19 seconds East 15 feet and South 49 degrees 43 minutes 41 seconds East 100 feet to the southeast end of said wall, thence leaving said wall and running the nine following courses and distances viz: South 49 degrees 43 minutes 41 seconds East 45 feet, North 40 degrees 16 minutes 19 seconds East 50 feet, South 49 degrees 43 minutes 41 seconds East 250 feet, South 40 degrees 16 minutes 19 seconds West 240 feet, North 49 degrees 43 minutes 41 seconds West 105 feet, South 40 degrees 16 minutes 19 seconds West 20 feet, North 49 degrees 43 minutes 41 seconds West 145 feet, North 40 degrees 16 minutes 19 seconds East 135 feet and North 49 degrees 43 minutes 41 seconds West 45 feet to the place of beginning.

Containing 1.73 Acres of land more or less.

Being the property of Belair Road Associates, Ltd., as shown on plan filed with the Zoning Department.

Hearing Date: Thursday, March 25, 1982, at 10:30 a.m.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

BY ORDER OF
William E. Hammond
Zoning Commissioner
Of Baltimore County

The Times

Middle River, Md., - March 7 19 82

This is to Certify, That the annexed

Petition

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive

weeks before the 7th day of

March, 19 82
Charles D. [Signature] Publisher.

ZONING COMMISSIONER OF
BALTIMORE COUNTY



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

John B. Howard, Esquire
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204

March 17, 1982

RE: Petition for Special Hearing
448' NW of Belair Rd., 666' NE of Lincoln Ave.
Belair Road Associates, Ltd. - Petitioner
Case #82-208-SPH

Dear Mr. Howard:

This is to advise you that \$92.32 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 106833

DATE: 3/26/82 ACCOUNT: 01-662

\$92.32

RECEIVED FROM: Cook, Howard, Downes & Tracy

FOR: Posting & Advertising for Case #82-208-SPH (Belair Rd. Associates)

344 444 26

2232

VALIDATION OR SIGNATURE OF CASHIER

Rec'd 3/24/82
9:20 AM
J.B.H.

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

February 4, 1982

JAMES D. C. DOWNES
11906-19791

823-4111
AREA CODE 301

HAND DELIVERED

William E. Hammond, Zoning Commissioner
Baltimore County Office of
Planning & Zoning
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Animated Playhouses Corporation
Petition for Special Hearing
Animated Playhouses Corporation
Petition for Special Exception

Dear Bill:

You will recall our meeting of Thursday, January 28 at which time we discussed certain procedural matters with respect to the desired approvals for Animated Playhouses Theme Restaurant and Theater at its E.M. zoned Putty Hill Plaza location.

Earlier this week I filed with your office separate Petitions for (i) a Special Hearing to approve, as a permitted use in a B.M. zone, a combination family entertainment restaurant and theater as the principal uses with amusement devices as an accessory use, and (ii) for a Special Exception in anticipation that such may be required as the result of legislation that the County presently has under consideration.

Attached please find a letter that I just received from Animated Playhouses setting forth what I consider as compelling reasons for an early hearing date.

There are a number of Baltimore County residents sponsoring this new and innovative venture; and, as you will note from the enclosed, an April 1, 1982 opening is of extremely critical importance.

John B. Howard, Esquire
February 2, 1982

reluctant to issue any financial commitments until they receive assurances that the theme restaurant will open on schedule. APC thus is forced, for the present time, to use its own limited capital to develop the Putty Hill Plaza restaurant. Finally, APC has been talking with individuals and groups throughout the United States who are interested in its theme restaurant concept. APC's ability to market its concept, to a large extent, must wait until potential investors can see the first unit in operation.

In conclusion, the need to expedite Animated Playhouses Corporation's request is indeed urgent. Everyone in Baltimore County that we have spoken with, including Baltimore County Council members and other officials of the County's government, have been receptive to APC's theme restaurant concept. We believe that APC's restaurants will provide an excellent and unique entertainment concept for the citizens of Baltimore County. We trust that the existing laws permitting video games as an accessory use in BM zones can be applied expeditiously with regard to the Putty Hill site so that the significant capital commitments made by APC will not be endangered.

If you have any questions, please give me a call. Again, we would appreciate your doing everything possible so that we can open the theme restaurant in Putty Hill on or before April 1, 1982.

Sincerely,

Edward T. Whelan
Vice President

Page 2
William E. Hammond, Zoning Commissioner
February 4, 1982

If there is to be any possibility of meeting that date, a hearing as soon as permitted by law, i.e. thirty days following the filing acceptance of the Petitions and accompanying documentation, is urgently needed.

Your careful consideration of this request is greatly appreciated.

Kind regards.

Sincerely,

John B. Howard

JBH:ec
Enclosure
cc: Mr. Edward T. Whelan
cc: Richard H. Tanenbaum, Esquire

ANIMATED PLAYHOUSES CORPORATION
1776 EAST JEFFERSON STREET
SUITE 316 SOUTH
ROCKVILLE, MARYLAND 20852
(301) 984-1611

February 2, 1982

John B. Howard, Esquire
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
Towson, MD 21204

Dear John:

I am writing to request that the work that you are doing in connection with our theme restaurant in Putty Hill, Baltimore County be expedited to the maximum extent possible. As you know, Animated Playhouses Corporation, obtained a long-term lease, effective December 1, 1981, on a restaurant site in Putty Hill Plaza with the expectation of opening on or before April 1, 1982. Subsequent to entering into the lease, we learned of certain members of the public with regard to video game arcades in Baltimore County. While we share that concern, we hope that our theme restaurant concept will not be delayed and financially burdened while the public's concern is addressed.

As you know, Animated Playhouses Corporation ("APC") is a new company which was formed in 1981. The Company plans to open its animated theme restaurants throughout the United States over the next several years. APC considers itself a Baltimore area, including individuals associated with T. Rowe Price Associates, Inc., Alex Brown Limited Partnership, and Francis B. Burch. The Company therefore opted to open its first unit in Baltimore County in order to showcase its product for distribution throughout the country.

Careful marketing analyses and demographic studies were conducted for APC's initial theme restaurant. An important consideration in selecting the first site was its availability and ability to open on or before April 1, 1982, a date which is important to the Company and perhaps its future viability.

PETITION FOR SPECIAL HEARING
14th DISTRICT

ZONING: Petition for Special Hearing
LOCATION: 448 ft. Northwest of Belair Road, 666 ft. Northeast of centerline of Lincoln Avenue
DATE & TIME: Thursday, March 25, 1982, at 10:30 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing:

Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a commercial recreation enterprise consisting of a Theme-Family Entertainment Restaurant and Theater as the principal use with amusement devices as an accessory use in a B.M. Zone

All that parcel of land in the Fourteenth District of Baltimore County.

Being the property of Belair Road Associates, Ltd., as shown on plat plan filed with the Zoning Department

Hearing Date: Thursday, March 25, 1982, at 10:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

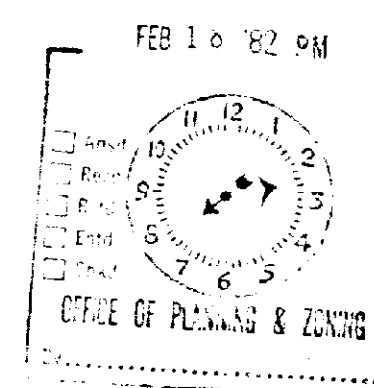
February 3, 1982

Zoning Description

All that piece or parcel of land situated, lying and being in the Fourteenth District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the southeast end of the common wall between the Giant Food Store and the restaurant in the Belair Road Plaza Shopping Center, said point being distant North 49 degrees 43 minutes 41 seconds West 448 feet from a point on the northwest side of Belair Road which point on Belair Road is located 666 feet measured northeasterly along the northwest side of Belair Road from the center of Lincoln Avenue, thence running from said place of beginning and ending on said common wall, North 49 degrees 43 minutes 41 seconds West 125 feet, thence leaving said common wall and continuing to bind on the walls of the restaurant, the four following courses and distances viz: North 40 degrees 16 minutes 19 seconds East 60 feet, South 49 degrees 43 minutes 41 seconds East 75 feet, North 40 degrees 16 minutes 19 seconds East 15 feet and South 49 degrees 43 minutes 41 seconds East 100 feet to the southeast end of said wall, thence leaving said wall and running the nine following courses and distances viz: South 49 degrees 43 minutes 41 seconds East 45 feet, North 40 degrees 16 minutes 19 seconds East 50 feet, South 49 degrees 43 minutes 41 seconds East 250 feet, South 40 degrees 16 minutes 19 seconds West 20 feet, North 49 degrees 43 minutes 41 seconds West 20 feet, North 49 degrees 43 minutes 41 seconds West 145 feet, North 40 degrees 16 minutes 19 seconds East 135 feet and North 49 degrees 43 minutes 41 seconds West 45 feet to the place of beginning.

Containing 1.73 Acres of land more or less.



REVISED PLANS

1/43

IN THE MATTER OF THE * BEFORE THE
PETITION FOR SPECIAL HEARING OF * DEPUTY ZONING
ANIMATED PLAYHOUSES CORPORATION * COMMISSIONER FOR
* BALTIMORE COUNTY
* * * * *

MEMORANDUM IN SUPPORT OF PETITION
FACTS

As established by the evidence adduced at the hearing, Animated Playhouses Corporation ("APC") has developed an exciting new concept in family restaurants. Over the next few years, APC intends to open restaurants throughout the United States. APC, which has been capitalized by major investors from the Baltimore County area, intends to open its first family theme restaurant in Putty Hill Plaza Shopping Center in Baltimore County, Maryland. This restaurant will serve the flagship of APC's national chain of restaurants. APC itself has its corporate headquarters in Maryland.

APC's concept has been developed by an outstanding management team. The food and restaurant operations were structured by a team of experts with, collectively, over 100 years of experience with the Marriott Corporation. From the food test kitchens of Griffith Laboratories in New Jersey, to restaurant training and management programs, both being designed and implemented in Baltimore County, the care and quality food product associated with Marriott food services will be brought to the Putty Hill restaurant.

The primary family entertainment is three-dimensional, animated characters similar to the Bear Country Jamboree in Walt Disney's theme parks. APC has its own animation team that has developed and is constructing the animated characters, designed and is making the costumes for the characters, written and is producing the audio portion of the shows and, finally, has acquired and is programming the computer system to produce the animated shows. The entire animation production is being accomplished in APC's subsidiary, Animated Show Productions Corporation, in Hollywood, California. This effort is headed by a management team with, collectively, over 100 years of experience with Walt Disney.

The family theme restaurant at the Putty Hill Plaza Shopping center and throughout the United States will trade under the name of "River Towne Restaurant". The restaurant is designed primarily to attract and serve families with young children. The entire setting of the restaurant will be an Americana river town. Families will enter the restaurant and find themselves on a wharf along a river bank in a river town set in the early 1900's. Individual stores along the wharf will be where families order their food and beverages. Docked alongside the wharf will be an old-time steamboat facing a dock where all families will dine and view the animated shows being presented by APC on the banks of the river. Families may also dine on the bow of the steamboat or, if they wish, go inside the steamboat to use the children's rides and games. The

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authenticity, of the setting includes the steamboat actually appearing to be floating in the "river's" water.

The primary entertainment developed and offered by the restaurant will consist of computer-controlled animated characters (similar to Disney World characters) who will perform 10 to 15 minute shows. The shows will consist of music performed and sung by the characters. These shows will be continuous throughout the hours of operation at approximately 10 to 15 minute intervals.

In addition to the entertainment provided by the shows featuring APC's animated characters, there will be various children's rides and games for the entertainment of the youngsters. This other entertainment will be found in the steamboat's "play deck" and will include a game known as "Ski-Ball", a variant of bowling, children's rides, and other games. Over 83 percent of the leased premises are dedicated to the restaurant and animated shows, with 17 percent of the floor space of the restaurant used to house the play deck. The play deck will offer approximately 50 games and rides. Also available will be a free "Wheel House" play area in the steamboat where small children can explore and leave via a slide.

The ancillary nature of the children's rides and games is evident from the floor area of the premises, which is primarily used for the restaurant. In addition, over 75 percent of the income of the premises will be derived from the

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restaurant's operations, less the 25 percent from the rides and games. Over \$1 million is being invested in the Putty Hill restaurant to create the river town setting and acquire the restaurant equipment. The animated characters and first three shows cost approximately \$150,000.00. Essentially, the children's rides and games support the animated entertainment offered free to diners, which is the unique attraction of APC's family restaurant. The River Towne Restaurant will offer moderately priced, high quality food in an atmosphere families can enjoy. The average price of dining at the River Towne Restaurant for a family of four is projected at \$11.00. The animated shows will serve to introduce and keep families coming back to enjoy the wholesome quality food offered at the River Towne Restaurant in Putty Hill.

The testimony at the hearing clearly established that the restaurant is designed to draw a family dining crowd. The level of play programmed into the games, and the other types of amusements and entertainment, are directed at young children, in order to attract families for dining.

DISCUSSION

APC acquired the Putty Hill site, recognizing its location in a B.M. zone. APC went forward with the knowledge that a restaurant was a permitted principal use in a B.M. zone and with the belief that its rides and games would be permitted as an accessory use. APC petitioned the Zoning Commissioner

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for the subject special hearing. Animated Playhouses Corporation respectfully requests permission to operate its River Towne Restaurant at the Putty Hill site, with the restaurant as the principal use, and the children's rides and games as an accessory use permitted in a B.M. zone.

Baltimore County Zoning Regulations regarding the B.M. zone (Business, Major) permit restaurants as of right, pursuant to §233.2b. Accessory uses or structures supporting the principal uses are also permitted as of right. Accessory use is defined in §101 of the Zoning Regulations as a use which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served.

The salient question presented with regard to APC's accessory use of children's rides and games at its River Towne Restaurant is whether the principal use, as a matter of custom or convenience, carries with it an incidental use so that as a matter of law, in the absence of a complete prohibition of the claimed incidental use in the regulations, it is deemed that the intent was to include the accessory use when the principal use is permitted. In the present case, it is respectfully submitted that APC's principal use of the premises as a

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restaurant is a permitted use in the applicable B.M. zone; and APC's use of children's rides and games is an accessory use of the premises, one which is not prohibited in the applicable regulations and, therefore, is a permitted accessory use to the family theme restaurant.

It is submitted that the use of the rides and games as contemplated by APC, based upon the testimony and facts presented at the hearing, established that their use is a permitted accessory use to this type of family theme restaurant. All factors required by the definition of accessory use are present in this case.

APC's "River Towne Restaurant" is first and foremost just what its name implies -- a restaurant. The restaurant has been designed, planned, and is being implemented with the best management talent out of the tradition of Marriott food operations. The primary and unique entertainment offered to all diners is a new animated show created by APC with the best management talent out of the tradition of Walt Disney. Use of the children's rides and games in this case is a specialized type of entertainment which is incident and subordinate to the principal use of the site as a restaurant.

The entire entertainment package of shows, rides and games serves the principal use in the same way as live entertainment of other kinds has traditionally served other restaurants. It is very common for a restaurant to offer some type of entertainment in order to distinguish itself from other

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establishments and increase the enjoyability of the dining experience for its customers. While the entertainment offered by APC is unique, it is a difference in kind only since entertainment has traditionally been provided by restaurants. The rides and games are clearly subordinate to the animated shows which are the primary entertainment offered. Both the children's rides and games and the animated shows, taken together, are subordinate to the principal use of the premises as a restaurant, namely, River Towne Restaurant.

The statistics and testimony supplied indicate that the use of the children's rides and games is subordinate in area, extent and purpose to the principal use of the premises -- a restaurant. These uses are obviously located on the same lot as the principal use. The rides and games contribute to the comfort and convenience of the occupants in the principal use by providing entertainment while they dine. It is the use of the animated shows together with and supported by the children's rides and games which give this restaurant its character and enables it to draw upon families with young children for its patrons. This family restaurant will provide reasonably priced food service to its patrons in an atmosphere designed for the enjoyment of the entire family.

While the type of entertainment offered by APC to complement its restaurant is not prevalent at this time, it is a new and growing concept in the restaurant business which has been successfully operated in other parts of the country and is

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now coming to Baltimore County. Two other companies now offer similar theme restaurants in over 25 states. APC believes it has developed a quality restaurant serving the finest in family food and has developed a truly unique and exciting animated show unsurpassed by anyone in the entertainment or restaurant industry. It is proud and pleased to be able to offer its first River Towne Restaurant to the citizens of Baltimore County.

Cases which have interpreted the relationship of accessory uses to a principal one support the conclusion that the use of children's rides and games should be approved for use in conjunction with the River Towne Restaurant. For example, in Anderson v. Associated Professors of Loyola College, 39 Md. App. 345 (1978), Loyola College had acquired two residences across the street from its campus. One residence was used as a combination residence and office for the college president, and the other residence was used solely as administrative offices. Opponents of the plan argued that office use was prohibited in the single family residence zone applicable to the property. Colleges and universities, however, were permitted under the applicable residential zoning. The Court considered the primary or dominant function of Loyola College as educational, and determined that the home of the president and administrative offices are an essential accessory thereto. Office use zoning was not necessary for the properties. Similarly, the primary use by APC of its site at

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Putty Hill Plaza is as a restaurant, and the rides and games simply an accessory use thereto.

APC's use of the children's rides and games in conjunction with its restaurant operation must be distinguished from an "amusement center" now prevalent in the larger shopping malls in Baltimore County. The Board of Appeals of Baltimore County has ruled that amusement centers, which consist completely of video and other types of mechanical games, are a principal use which, under the category of commercial recreation enterprise, is permitted in a B.M. zone. This line of inquiry is not, however, germane to the present case.

In another case, the Court of Appeals held, in Mayor of Baltimore v. Poe, 224 Md. 428 (1961), that a fraternity house providing room and board to its members does not make the principal or dominant use thereof a boarding house. The Court stated that providing such rooms was accessory to the overall dominant use as a fraternity. Similarly, APC's providing rides and games to its patrons does not make the principal or dominant use thereof a amusement center or arcade or commercial recreation center. APC's provision of such children's rides and games is accessory to the overall dominant use as a restaurant.

It is respectfully submitted that all of the requirements of an accessory use as defined in §101 of the Baltimore County Zoning Regulations have been documented. The fact that entertainment is provided is customary and

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subordinate to the premises' principal use as a restaurant. While the type of entertainment provided in this case may be a unique concept for the enjoyment of the entire family, APC submits that existing law clearly supports the use of children's rides and games as an accessory use to the permitted use of the premises as a restaurant. APC respectfully requests permission to operate its River Towne Restaurant at the Putty Hill Plaza Shopping Center, with the restaurant as the principal use, and the children's rides and games as an accessory use permitted in a B.M. zone.

John B. Howard
John B. Howard

Frank A. Lafalce, Jr.
Frank A. Lafalce, Jr.
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21204
301-823-4111
Attorney for the Petitioner

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Mrs. Jean A. Jung
April 7, 1982
Page 3

legislation. At that time, APC felt confident, based upon its discussions with County officials, that its planned use of children's rides and games were not only permitted under existing law as an accessory use to its restaurant, but that the proposed legislation also would allow APC's proposed use by way of special exception.

The Baltimore County Council passed legislation at its session on January 4, 1982, which would have allowed APC's operation by way of a special exception. The January 4 proposed legislation, however, was vetoed by the County Executive, creating a critical timing problem for APC. From January 4 until April 5, 1982, no new legislation was passed by the County Council.

During this time period it became obvious that APC could no longer wait for a legislative resolution. Discussions with Baltimore County officials suggested that APC should apply for a special hearing before the Zoning Commissioner's Office since legal precedent indicated that the proposed use of the children's rides and games was clearly an accessory use to the restaurant and should be permitted. In fact, a more intense use of video games had been permitted in B.M. zones as a principal use in four cases. Being caught up in the legislative process, a Petition for Special Hearing was filed with the Baltimore County Zoning Commissioner on February 1, 1982; and upon advising Zoning Commissioner Hammond of the extreme financial consequence that would result if a hearing thereon was scheduled in the normal course, he directed that it be advanced for hearing on March 25. At that time, it is submitted, APC demonstrated the accessory nature of the children's rides and games at its River Towne Restaurant.

To date, absolutely no opposition has been voiced by anyone; rather everyone is excited about the quality restaurant and entertainment concept being brought to the citizens of Baltimore County and the resulting economic contribution of APC to the local economy. For this to occur, it is absolutely essential that the opening occur on April 12.

II. A Solution To The Problem - The New Legislation

It is respectfully submitted that an immediate approval of APC's accessory use of children's rides and games at the Putty Hill site would be consistent with present law. However, the

Mrs. Jean A. Jung
April 7, 1982
Page 4

approval could be conditioned upon APC's meeting the intent and letter of the new legislation.

Clearly, APC's proposed use is permitted under Bill No. 29-82 upon the granting of a special exception by the Baltimore County Zoning Commissioner. On February 1, 1982, APC filed a request for a special exception in anticipation of the recently enacted legislation by Baltimore County. APC has, since December, 1981, supported the legislation and suggests that its special exception request on file with the Zoning Commissioner's Office could be processed over the next 45 days, to coincide with the time Bill No. 29-82 becomes effective.

Assuming APC is permitted to meet its critical opening deadline of April 12, 1982, the emergency legislation passed on April 15, 1982 (Bill No. 42-82) provides Baltimore County with definite control over APC's use of the children's rides and games while the special exception is processed. Bill No. 42-82 gives the Director of Permits and Licenses broad powers to prohibit or suspend the use of the children's rides and games if it is found, in practice, that APC's use is not consistent with the facts presented at the special hearing. In addition, the Director of Permits and Licenses would have the authority to institute an investigation upon the complaint of any person about the use of APC's children's rides and games. While no County official or County resident has objected to the manner in which APC intends to use the children's rides and games, this new emergency legislation guarantees their use in a proper manner. Finally, APC's agreement to immediately process its special exception request guarantees that its use will be subject to further scrutiny by the Zoning Office and that the requirements of Bill 29-82 will be met as soon as possible.

APC respectfully proposes that an Order be signed which would allow APC to open the River Towne Restaurant at the Putty Hill Plaza by April 12, 1982, with the children's rides and games as a permitted accessory use to the restaurant under existing Zoning Regulations. This Order could be conditioned upon APC's processing, with all deliberate speed, its request for a special exception under Bill 29-82, and, in the interim, being subject to the controls set forth in Bill 42-82. To meet Baltimore County's and APC's mutual objectives, while assuring strict compliance with the letter and spirit of both existing law and the recently passed legislation, such an Order might embody language similar to the following:

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

JAMES H. COOK
JOHN B. HOWARD
DAVID D. DOWNES
DANIEL O. TRACY, JR.
JOHN H. ZINK, III
JOSEPH C. WICK, JR.
HENRY B. PECK, JR.
HERBERT R. O'CONNOR, III
THOMAS L. HUDSON
FRANK A. LAFALCE, JR.
C. CARNEY DELLEY, JR.
M. KINGS HILL, III
LAURYN L. MCLURE, JR.

April 7, 1982

Mrs. Jean A. Jung
Deputy Zoning Commissioner
for Baltimore County
Towson, Maryland 212104

Re: In the Matter of the Petition for
Special Hearing of Animated Playhouses
Corporation -- Amended Request to
Permit Opening on or before April 12,
1982, conditioned upon compliance with
Bills Nos. 28-82 and 42-82 passed April
5, 1982 by the Baltimore County Council.

Dear Mrs. Jung:

The purpose of this letter is to amend the request filed by Animated Playhouses Corporation ("APC") in connection with the special hearing held on March 25, 1982. Since the special hearing was held, the Baltimore County Council has passed two pieces of legislation regarding (1) the identification of areas where amusement devices are permissible and (2) enforcement of the use of amusement devices. It is respectfully submitted that the new legislation provides a means to reach a practical solution to the practical problem now presented in light of APC's absolute need to open by April 12, 1982, and the County's desire to assure the proper regulation and use of amusement devices.

I. BACKGROUND

APC is faced with an immediate crisis situation. It has hired approximately 87 employees at the River Towne Restaurant in Putty Hill Plaza who are now being trained for the proposed public opening of the restaurant on April 12, 1982. The River Towne Restaurant cannot, however, open without the use of the proposed children's rides and games. If the River Towne

Mrs. Jean A. Jung
April 7, 1982
Page 5

"The proposed use of the 'play deck' area for children's rides and games is incidental and subordinate in extent and purpose to the principal restaurant use and will contribute to the comfort and convenience of the restaurant patrons. The requirements of Sections 101 and 233.2B of the Baltimore County Zoning Regulations with respect to accessory uses having been met, the Petitioner is hereby granted approval to operate the children's rides and games as an accessory use to its restaurant; provided, however, that the Petition for Special Exception which has previously been filed with the Office of Planning and Zoning be processed with all deliberate speed by APC and the accessory use of the children's rides and games at the Putty Hill Plaza site is subject to the granting or denial of said special exception; and provided further that APC's use of the children's rides and games is subject to Bill No. 42-82 when enacted into law as emergency legislation."

It is submitted that the above Order by the Zoning Commissioner's Office would be consistent with the legislative intent expressed on April 5, 1982 by the Baltimore County Council. At the same time, it would allow APC the opportunity to bring its family restaurant to Baltimore County residents.

Thank you for considering the urgency of this request.

Sincerely,

John B. Howard
John B. Howard
Attorney for Petitioner

JBH/pat

Mrs. Jean A. Jung
April 7, 1982
Page 2

Restaurant does not open to the public on April 12, 1982, APC will lose existing financial commitments in excess of \$1 million. Since mid-1981 APC has had no income and has been using its own operating funds not only for animation development, but also for the Company's overall operations and construction of the Putty Hill Restaurant. If the financial commitment is lost due to the Restaurant's inability to open April 12, 1982, APC will be forced to immediately discharge the 87 employees in Baltimore County and also cut back severely on the 43 other employees the Company has in California and in Maryland.

The time constraints now faced by APC have been caused by a number of factors, not the least of which is the effect of the controversy surrounding use of video games in convenience stores.

Initially, APC was capitalized in 1981 by major investors from the Baltimore County area. With this investment group, APC had a natural inclination toward opening its flagship restaurant in Baltimore County. Commencing in the Fall of 1981, APC met with numerous officials of Baltimore County before even signing a lease, much less starting construction. APC met with personnel from the Baltimore County Executive's Office, several Baltimore County Council members and their representatives, and the People's Counsel, as well as different licensing officials.

While APC's understanding was that certain procedures would be required before ultimate approval, and citizen opposition could always develop, there was every reason to believe that the approvals could be obtained by late March. With this background, APC entered into a long-term lease commitment as of December 1, 1981 for the River Towne Restaurant at the Putty Hill Plaza. Detailed building plans were approved by the requisite Baltimore County officials and construction commenced at an accelerated pace. APC went forward with its construction based upon its discussions with all County officials contacted that a proposed opening in March, 1982 would be possible.

During the construction period the controversy concerning the use of video games in convenience stores came to the forefront in Baltimore County. APC attended legislative hearings and presented written testimony at the December 1, 1981 Baltimore County Council meeting concerning the pending

IN THE MATTER OF THE	*	BEFORE THE
PETITION FOR SPECIAL HEARING OF	*	DEPUTY ZONING
ANIMATED PLAYHOUSES CORPORATION	*	COMMISSIONER FOR
	*	BALTIMORE COUNTY
	*	

MEMORANDUM IN SUPPORT OF PETITION

FACTS

As established by the evidence adduced at the hearing, Animated Playhouses Corporation ("APC") has developed an exciting new concept in family restaurants. Over the next few years, APC intends to open restaurants throughout the United States. APC, which has been capitalized by major investors from the Baltimore County area, intends to open its first family theme restaurant in Putty Hill Plaza Shopping Center in Baltimore County, Maryland. This restaurant will serve as the flagship of APC's national chain of restaurants. APC itself has its corporate headquarters in Maryland.

APC's concept has been developed by an outstanding management team. The food and restaurant operations were structured by a team of experts with, collectively, over 100 years of experience with the Marriott Corporation. From the food test kitchens of Griffith Laboratories in New Jersey, to restaurant training and management programs, both being designed and implemented in Baltimore County, the care and quality food product associated with Marriott food services will be brought to the Putty Hill restaurant.

The primary family entertainment is three-dimensional, animated characters similar to the Bear Country Jamboree in Walt Disney's theme parks. APC has its own animation team that has developed and is constructing the animated characters, designed and is making the costumes for the characters, written and is producing the audio portion of the shows and, finally, has acquired and is programming the computer system to produce the animated shows. The entire animation production is being accomplished in APC's subsidiary, Animated Show Productions Corporation, in Hollywood, California. This effort is headed by a management team with, collectively, over 100 years of experience with Walt Disney.

The family theme restaurant at the Putty Hill Plaza Shopping center and throughout the United States will trade under the name of "River Towne Restaurant". The restaurant is designed primarily to attract and serve families with young children. The entire setting of the restaurant will be an Americana river town. Families will enter the restaurant and find themselves on a wharf along a river bank in a river town set in the early 1900's. Individual stores along the wharf will be where families order their food and beverages. Docked alongside the wharf will be an old-time steamboat facing a dock where all families will dine and view the animated shows being presented by APC on the banks of the river. Families may also dine on the bow of the steamboat or, if they wish, go inside the steamboat to use the children's rides and games. The

authenticity of the setting includes the steamboat actually appearing to be floating in the "river's" water.

The primary entertainment developed and offered by the restaurant will consist of computer-controlled animated characters (similar to Disney World characters) who will perform 10 to 15 minute shows. The shows will consist of music performed and sung by the characters. These shows will be continuous throughout the hours of operation at approximately 10 to 15 minute intervals.

In addition to the entertainment provided by the shows featuring APC's animated characters, there will be various children's rides and games for the entertainment of the youngsters. This other entertainment will be found in the steamboat's "play deck" and will include a game known as "Ski-Ball", a variant of bowling, children's rides, and other games. Over 83 percent of the leased premises are dedicated to the restaurant and animated shows, with 17 percent of the floor space of the restaurant used to house the play deck. The play deck will offer approximately 50 games and rides. Also available will be a free "Wheel House" play area in the steamboat where small children can explore and leave via a slide.

The ancillary nature of the children's rides and games is evident from the floor area of the premises, which is primarily used for the restaurant. In addition, over 75 percent of the income of the premises will be derived from the

restaurant's operations, less the 25 percent from the rides and games. Over \$1 million is being invested in the Putty Hill restaurant to create the river town setting and acquire the restaurant equipment. The animated characters and first three shows cost approximately \$150,000.00. Essentially, the children's rides and games support the animated entertainment offered free to diners, which is the unique attraction of APC's family restaurant. The River Towne Restaurant will offer moderately priced, high quality food in an atmosphere families can enjoy. The average price of dining at the River Towne Restaurant for a family of four is projected at \$11.00. The animated shows will serve to introduce and keep families coming back to enjoy the wholesome quality food offered at the River Towne Restaurant in Putty Hill.

The testimony at the hearing clearly established that the restaurant is designed to draw a family dining crowd. The level of play programmed into the games, and the other types of amusements and entertainment, are directed at young children, in order to attract families for dining.

DISCUSSION

APC acquired the Putty Hill site, recognizing its location in a B.M. zone. APC went forward with the knowledge that a restaurant was a permitted principal use in a B.M. zone and with the belief that its rides and games would be permitted as an accessory use. APC petitioned the Zoning Commissioner

for the subject special hearing. Animated Playhouses Corporation respectfully requests permission to operate its River Towne Restaurant at the Putty Hill site, with the restaurant as the principal use, and the children's rides and games as an accessory use permitted in a B.M. zone.

Baltimore County Zoning Regulations regarding the B.M. zone (Business, Major) permit restaurants as of right, pursuant to §233.2b. Accessory uses or structures supporting the principal uses are also permitted as of right. Accessory use is defined in §101 of the Zoning Regulations as a use which (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served.

The salient question presented with regard to APC's accessory use of children's rides and games at its River Towne Restaurant is whether the principal use, as a matter of custom or convenience, carries with it an incidental use so that as a matter of law, in the absence of a complete prohibition of the claimed incidental use in the regulations, it is deemed that the intent was to include the accessory use when the principal use is permitted. In the present case, it is respectfully submitted that APC's principal use of the premises as a

restaurant is a permitted use in the applicable B.M. zone; and APC's use of children's rides and games is an accessory use of the premises, one which is not prohibited in the applicable regulations and, therefore, is a permitted accessory use to the family theme restaurant.

It is submitted that the use of the rides and games as contemplated by APC, based upon the testimony and facts presented at the hearing, established that their use is a permitted accessory use to this type of family theme restaurant. All factors required by the definition of accessory use are present in this case.

APC's "River Towne Restaurant" is first and foremost just what its name implies -- a restaurant. The restaurant has been designed, planned, and is being implemented with the best management talent out of the tradition of Marriott food operations. The primary and unique entertainment offered to all diners is a new animated show created by APC with the best management talent out of the tradition of Walt Disney. Use of the children's rides and games in this case is a specialized type of entertainment which is incident and subordinate to the principal use of the site as a restaurant.

The entire entertainment package of shows, rides and games serves the principal use in the same way as live entertainment of other kinds has traditionally served other restaurants. It is very common for a restaurant to offer some type of entertainment in order to distinguish itself from other

establishments and increase the enjoyability of the dining experience for its customers. While the entertainment offered by APC is unique, it is a difference in kind only since entertainment has traditionally been provided by restaurants. The rides and games are clearly subordinate to the animated shows which are the primary entertainment offered. Both the children's rides and games and the animated shows, taken together, are subordinate to the principal use of the premises as a restaurant, namely, River Towne Restaurant.

The statistics and testimony supplied indicate that the use of the children's rides and games is subordinate in area, extent and purpose to the principal use of the premises -- a restaurant. These uses are obviously located on the same lot as the principal use. The rides and games contribute to the comfort and convenience of the occupants in the principal use by providing entertainment while they dine. It is the use of the animated shows together with and supported by the children's rides and games which give this restaurant its character and enables it to draw upon families with young children for its patrons. This family restaurant will provide reasonably priced food service to its patrons in an atmosphere designed for the enjoyment of the entire family.

While the type of entertainment offered by APC to complement its restaurant is not prevalent at this time, it is a new and growing concept in the restaurant business which has been successfully operated in other parts of the country and is

now coming to Baltimore County. Two other companies now offer similar theme restaurants in over 25 states. APC believes it has developed a quality restaurant serving the finest in family food and has developed a truly unique and exciting animated show unsurpassed by anyone in the entertainment or restaurant industry. It is proud and pleased to be able to offer its first River Towne Restaurant to the citizens of Baltimore County.

Cases which have interpreted the relationship of accessory uses to a principal use support the conclusion that the use of children's rides and games should be approved for use in conjunction with the River Towne Restaurant. For example, in Anderson v. Associated Professors of Loyola College, 39 Md. App. 345 (1978), Loyola College had acquired two residences across the street from its campus. One residence was used as a combination residence and office for the college president, and the other residence was used solely as administrative offices. Opponents of the plan argued that office use was prohibited in the single family residence zone applicable to the property. Colleges and universities, however, were permitted under the applicable residential zoning. The Court considered the primary or dominant function of Loyola College as educational, and determined that the home of the president and administrative offices are an essential accessory thereto. Office use zoning was not necessary for the properties. Similarly, the primary use by APC of its site at

Putty Hill Plaza is as a restaurant, and the rides and games simply an accessory use thereto.

APC's use of the children's rides and games in conjunction with its restaurant operation must be distinguished from an "amusement center" now prevalent in the larger shopping malls in Baltimore County. The Board of Appeals of Baltimore County has ruled that amusement centers, which consist completely of video and other types of mechanical games, are a principal use which, under the category of commercial recreation enterprise, is permitted in a B.M. zone. This line of inquiry is not, however, germane to the present case.

In another case, the Court of Appeals held, in Mayor of Baltimore v. Poe, 224 Md. 428 (1961), that a fraternity house providing room and board to its members does not make the principal or dominant use thereof a boarding house. The Court stated that providing such rooms was accessory to the overall dominant use as a fraternity. Similarly, APC's providing rides and games to its patrons does not make the principal or dominant use thereof a amusement center or arcade or commercial recreation center. APC's provision of such children's rides and games is accessory to the overall dominant use as a restaurant.

It is respectfully submitted that all of the requirements of an accessory use as defined in §101 of the Baltimore County Zoning Regulations have been documented. The fact that entertainment is provided is customary and

